

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.Rev.Pet.No. 2591 of 2007(D)

**CRA.113/2005 of ADDL. SESSIONS COURT (ADHOC-2), THRISSUR
CC.1268/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
CHALAKUDY**

REVN. PETITIONER: APPELLANTS/ACCUSED

**1. PAILIKUTTY, S/O KOCHUDEVASSY,
PAIPPAN HOUSE, KUTTICHIRA VILLAGE,
KARAPADA DESOM, MUKUNDAPURAM TALUK.**

**2. KOCHAPPAN, S/O KOCHU DEVASSY,
PAIPPAN HOUSE, KUTTICHIRA VILLAGE,
KARAPADA DESOM, MUKUNDAPURAM TALUK.**

**BY ADV. SRI.K.A.SREEJITH
SRI.JOSE MECHERY**

RESPONDENTS: RESPONDENTS/COMPLAINANT & STATE

**1. THE FOREST RANGE OFFICER,
PARIYARAM RANGE, THRISSUR.**

**2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. RAMKUMAR, J.

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Crl. R.P. No. 2591 OF 2007 D
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Dated this the 19th day of July, 2007

O R D E R

The revision petitioners, who are accused Nos.1 and 2 in C.C. No.1268/02 on the file of the JFCM, Chalakudy, challenge the conviction entered and the sentence passed concurrently against them by the courts below for an offence punishable under section 27(1)(e)(iv) of the Kerala Forest Act.

2. The case of the prosecution is as follows:-

On 2.5.1997, the three accused persons had trespassed upon the government reserve forest in the Pariyaram reserve forest armed with rifles, etc. and attempted to hunt wild animals using the unlicensed country made guns and thereby committed an offence punishable under section 27(1)(e)(iv) of the Kerala Forest Act.

3. On the accused pleading not guilty to the charge framed against them by the court below for the aforementioned offence, the prosecution altogether examined four witnesses as PWs 1 to 4 and got marked two documents as Exhibits P1 and P2 and four material objects as MO1 guns(two in number), MO2

shoulder bag and MO3 knife.

4. After the close of the prosecution evidence, the accused were questioned under section 313(1)(b) Cr.P.C. with regard to the incriminating circumstances appearing against them in the evidence for the prosecution. They denied those circumstances and maintained their innocence. The learned Magistrate, after trial, as per judgment dated 14.1.2005 convicted the accused of the aforesaid offence and each of them was sentenced to undergo imprisonment for one year and to pay a fine of Rs.1,000/-(Rupees one thousand only) and on default to pay the fine, to suffer simple imprisonment for three months. On appeal preferred by the revision petitioners as Crl. Appeal No.113/2005 before the Additional Sessions Court, Fast Track-II (Adhoc), Thrissur, the same was dismissed as per judgment dated 7.6.2007. Hence this revision.

5. The learned counsel for the revision petitioners assailed the conviction recorded against the revision petitioners contenting, inter alia, that the accused were not arrested from the spot and that their identification by PWs 1 and 2 cannot be accepted.

6. Both these aspects have been considered by the courts below, who have recorded the conviction after an evaluation of the oral and documentary evidence in the case. Eventhough on seeing PWs 1 and 2 at close quarters, the accused fled from the spot abandoning the guns, etc., PWs 1 and 2 had sufficient exposure to the revision petitioners at the scene of crime enabling them to correctly identify them from the dock. I, therefore, do not find any good ground to interfere with the conviction entered.

7. Now, coming to the question of adequacy or otherwise of the sentence imposed on the revision petitioners, what has been imposed is only the mandatory minimum which does not call for any interference.

This revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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